P- 31 2E

App. F. IX-4

193 (J. 1)

File No. 32 -96

Previous References
J. 15-96-23.

Serial Nos. 1-6

Later References
J. J. 13-30 (1-12)

preserve

General and Revenue Secretariat.

Serial Nos. Six

Part B for Oct 93.

SUBJECT.

Petition by mr J Vijendra Ram re Re registration of foreign Companies working in this state

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

D 6930

J.S. 32-26-1.

No. δ 18-4-29.

From, Mr. J. Vijendralloo
No 9. Krishna Buildings
Asseuua Road, B'bay

Forwards copy of the letter addr
to the Regr of J.S. Cos Nagpur
to inform him if the Chief
Agency office of the Pondi
Assurance Co Ltd., London
has been regd. under the
Nagpur Co's Regln, Etc and
Requests to take necessary ac
in registering for the Registrat
of all the Agencies of diffe
Cos.

No. 8 9618 & 4.5.27

to the Registrar of J.S companies.
Forwards the above petition
& remarks.

Sd/- A.
GEN. & REV. SECRETARIAT.
10 MAY 1927
DEVELOPMENT BRANCH

3) No C.61/24-28 & 22.6.27

From

The Registrar of J.S. Cos

To

With Refce to Sl 2 Stated that according to Sects 274 of the Companies Act only those Companies that have places of business in the State are Registerable & that he is taking suitable action against those foreign Companies Regd that have not Registered themselves under 274.

Regr says that the Company referred to in the petition Viz The Credential Assurance Company, Ltd. has been Regd. for the reasons stated

Subd for perusal.

Sec'y D) 4)

Letter No C 61/27-28 & 139/27 from the Regr. of J. & S. Cos inviting Refee to SR 3 and requesting in the circumstances explained that legal advice may be obtained as to ors for Section 277 of the Mysore Companies Regulation is applicable to foreign Companies carrying on business in the State & re the correct interpretation of the words "place of business".

Secty's order on the p. & D.

" L. L Secty to be Consulted. Please put up p. p

Sd N. R.
13.9.27.

Subd with previous papers.

9) Legal Remembrancer for favour of opinion.

Sd
20/9/27

My opinion dealing exhaustively with the question of interpretation of 'Place of business' and in Sec 277 of the Mysore Cos' Regn — is below.

Sd
5/11/27

O P I N I O N.

The question for consideration is what constitutes a place of business in the case of foreign companies operating in Mysore through their agents with or without having an office.

The expression"place of business" used in Section 277 is not defined anywhere in the Regulation. This expression is used in Section 271 of the Regulation and also in various acts such as Civil Procedure Code where the expression "carrying on business" is used. It is used in Sections 16, 19 and 30 Order 30 Rule 1 and 3 of the Civil Procedure Code, and corresponding Order XLVIII A Rule 1 of the Rules of the supreme Court 1883 in England. Expression "carrying on business and exercising a trade" are used in Indian Income-tax Act and English Income-tax Act respectively. Section 277 is a reproduction of Section 274 of the English Companies Act 1908. The decisions upon these various Acts will naturally throw much light upon the expression "place of business as used in Section 277. Place of business has been construed to mean the place where either manufacture or sale takes place. (See Keyustam Bluelias Lime Co., vs Baker 2 H & C. 729. See also 33 Ch. Dn. 508.)

Business means anything which occupies the time and attention and labour of man for the purposes of profit" (Per Jessel M.R. in Smith vs. Anderson 50 L.J. Ch.43.)

"Carrying on business" is interpreted to mean possession of a place of business held

partner or person or persons in the pay of the firm (See Warcester City Banking Co., Firbank & Co., (1834) Q.B.784.C.A. Shepherd v Hirsch Prichard & Co., 45 C.D.231, Lysaght v Clark (1891)1Q.B.552)

If the firm has no place of business in England held in the name of the firm, it has been held that they do not carry on business within the jurisdiction, even though the partners come to England regularly and employ agents there to purchase goods to be sent to the firm abroad. These decisions are decided under Order XLVIII Rule I of the Supreme Courts dealing with the jurisdiction of the Courts. The mere employment of an agent in England who collects orders for the firm on commission but has no power to accept or reject such orders, is not carrying on business in England even though the firm's name is painted on the door of the agent's office. (See Grant v Anderson (1892) 1 Q.B. 108 C.A. followed and applied to a foreign corporation having an agent in England in Oqura & Co., Ltd., vs Forsbscka Jernvrkas Aktiedolag, 1914 1 K.B. 715 C.A. Thames Mersey Marine Insurance Co., vs Austrian Lloyd Co. 1914 111 L.T. 97 C.A.; Baillie vs Goodwin 33 Chancerry Dn. 604, See also Morgan, Crucible Co., Ltd., vs Vulcan Cruicible Co., 23 R.P.C. 229)

It has been held under Income;tax Act that business through a broker or general commission agent or an agent casually employed does not make the non-resident person chargeable. (See Konstam on Income-tax page 127.) and Rule 10 at page 475.) To determine the

residence of a foreign company for the purpose of giving jurisdiction, the following decisions as to residence in England of a foreign corporation for the purpose of service of writ are of great help. They throw considerable light on the expression "place of business". It has been held that a Corporation is deemed to be resident in England when it is conducting its business or a material part of it (e.g., sale instead of manufacture) at some fixed place in England (e.g., a stall at the crystal palace) for a substantial period of time (e.g., 9 days) (Dunlop Pneumatic & Co., v Actien Geselschaft &., (1902) 1 K.B. 342 C.A.) It has always been held a question of fact whether under all the circumstances a foreign corporation has acquired residence. In De Beers &c., (lim) v Howe (1906) A.C.455 it was held that a company registered abroad and having its head office abroad but which carried on its real ~~busine~~ business at its office in London was ~~reside~~ resident within the United Kingdom for the purpose of being assessed under the Income-tax Act 1853 Section 2 Schedule D. Where the foreign corporation employed an agent in England who was also agent for another foreign firm and occupied offices under agreement between himself and his Landlord having his name on the door as sole agent for the Defendants; who received orders for the foreign corporation and sometimes fulfilled them by drawing upon goods of the corporation under his control in London or out of a small stock kept at his office and was paid only by commission, the court

held that both the defendants were not lessees of the Agent's office, they carried on business there within Newdy vs Van Oppen L.R.7 Q.B. 293 infra and Dunlop's case. Service on the Agent was held good service of the Writ (Saccharin Corp Ld v Chemische Fabrik von Heyden (1911) W.N. 127 C.A.) Where a foreign Railway Company had an office in London and a Board of Directors which dealt wolely with Financial matters such as raising money by ~~thexuxxy~~ the issue of bonds and debentures, service at that office was held good service on the Company (Actiesselskabet Dampskib Hercules v Grand Trunk Pacific Ry. Co., (1912) 1 K.B. 222, C.A.) There is authority for the position that the business transacted at the place must be the business of the Corporation and not merely ancillary to such business. (Allison v Independent Press Cable Assoc of Australia (1911) 28 Times Rep. 128 C.A.)

The cases decided upon sufficiency of service on Foreign Corporations Trading in England prior to the Company's Act 1907 ~~xiii~~ would still apply to a Foreign Company not registered under Section 274 of the English Companies Act 1908. These decision establish that the Agent employed to carry on business on behalf of the foreign Company must have power to enter into contracts for the sale of the foreign Corporations goods (Saccharin Corp Etd v Chemische Fabri von Heyden (1911) 2 K.B. 516, C.A. and the cases referred to above). The decision applies to cases covered by Sec 274 of the Co's Law corresponding to Sec 247. Turning now to the Indian decisions it was held that where buying goods takes

place in one place and selling in another the cause of action arises in both the places (See 92 I.C. 915 The decisions reported in 65 I.C. 94 and 9x 73 Ixdx Indian cases show that carrying on business is interpreted to mean a place where business is carried on ~~where~~ by an employee of a foreign firm or an agent who has authority to enter into contracts on behalf of that firm. In order to attract the operation of Section 20 of the Civil Procedure Code the Foreign Firm must have an interest in the business transaction at the particular place ie., a voice in what is done a share in the gain and loss, as may be, some control over the actual method of working at any rate upon the existence of the business (Vide 65 Indian cases page 94.)

The decisions under Sections 271 of the Companies Regulation show that a Foreign Company should have a branch office and assets within the local jurisdiction of the court to invest jurisdiction in the local court to take proceedings to wind up the concern (See 33 Ch. Dn. 174 1892 2 Ch. 204 1924) 2 Mysore Law Journal 165.) It should be remembered that the section uses the expression "principal place of business" but Section 277 uses a place of business. This distinction will enable a branch office to come within the operation of Section 277.

From these decisions the following propositions can fairly be established. In order to attract Section 277 of Mysore Companies Regulation, (1) A Company incorporated outside Mysore must establish a

5th Nov 1927 Bangalore. Legal Remembrancer

place of business within Mysore (See Lord Advocate v Huron & Erie Loan Co., 1911 S.C. 612 decided under Section 274 of the English Companies Act. Secondly the business carried on must be a material par of the business in which the foreign co is engaged i.e., for example in the case of a Company engaged in manufacture either selling or manufacture must take place at that place. The operation should not be merely ancillary to the main business. (Se Allison's case supra)

The business must be the business of the corporation or business of the firm or company and must be carried on either by the paid employees of the firm or by an agent having power to enter into contract on behalf of the foreign company; but a business cannot be said to be carried on if the agent collects orders for the firm or the company on commission and has no power to accept or reject such orders, in other words, if he is only a broker or commission agent having no power to bind the principal by his acts in exercise of a special authority given to him to act for the Company

The question whether a foreign company has a place of business in Mysore is a question of fact to be decided under all the circumstances of a given instance. The above propositions will only help to elucidate the matter. Tested in the light of these decisions none of the Companies mentioned in the list by the Registrar seems to come within the purview of section 277.

General and Revenue Secretariat. Js. File No. 32 of 1926.

Serial No.

S.

Letter No C 3141/27-28 & 14 10/27 from the Registrar of Js Cos forwarding Copies of letters received from the Managing Agents & Secretaries of the Kalasa Tea & Produce Co Ltd & requesting that legal advice may be obtained as to whether a foreign Company which has estate in the Mysore State cannot be considered as having a place of business in the State within the meaning of Section 277 of the Companies Regulation Subd.

The main file (Js. 32 Srs 1-6 26) was sent to the Legal Remembrancer on 26 9/27. This may also be reqd to-day

Js 20 10/27

Law Secretary) 26.10.27

I have fully discussed the question i.e. What constitutes a 'place of business' as used in Sec 277 of Cos' Regn, in my opinion dated 6th inst -

Kind attention is invited to that opinion.

Sd 9.11

Secretary with Compts. 9.11

Please peruse the opinion already given

GEN. & REV. SECRETARIAT. 10 NOV. 1927 DEVELOPMENT BRANCH.

General and Revenue Secretariat. G.S. File No. 32 of 1926.

Serial No.	
	Draft Subd. C Refer to para 14. para
	11/11/27
	15/11
6.	Letter No D 5499 d 23.11.27 to the Registrar of H.C. Cal forwarding a copy of the Legal Remembrancer's Note re the interpretation of the expression "place of business" used in Sec 274 of the Reffee.
	This is an old case lying on the file itself. No action appears to be called for and the case may be closed. The linked files which belong to this G.7 section may be returned to the Trial Branch
	25/10. 25/10.
	H Branch with compliments
	26/10 26
	The linked files taken out of the returned to Development Branch
	Development Branch with compliments

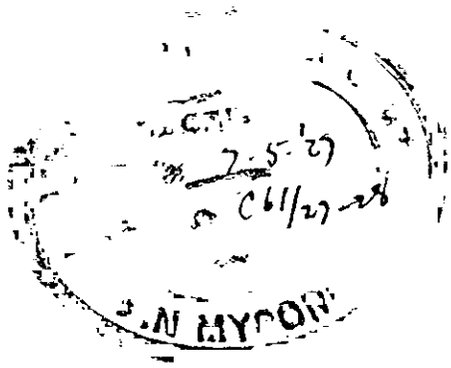
GEN. & REV. SECRETARIAT. 47-27 28 DEC. 1927 DEVELOPMENT BRANCH.

GEN. & REV. SECRETARIAT. 6 OCT. 1933 DEVELOPMENT BRANCH.

J. S. 32-26-1

From:-

J. Vijendra Rao, Esq.,
No. 9, Krishna Buildings,
Avenue Road, Bangalore City.



To

The Registrar of Joint Stock
Companies, in Mysore,
Bangalore.

Dear Sir,

I beg to request you to kindly let me know whether the Chief Agency office of "THE PRUDENTIAL ASSURANCE COMPANY LTD.," LONDON, registered in your books according to the rules of the Joint Stock Companies in Mysore. There are several foreign Companies carrying on business in several places of Mysore State by having their Agencies, such will be not less than 3 to 400 throughout Mysore State. If all these Agencies are registered according to the Joint Stock rules, what huge profits our Government will derive. No action has been taken up to now by our Government and I am afraid your are loosing very heavy earnings. Not only you derive profits but also you prevent misrepresentations of these Agents with the Public in Mysore State. Will you kindly let me know whether there is any punishment according to the rules, if these Agencies are not

not registered in the books of the Registrar of the Joint Stock Companies in Mysore, Bangalore?

Several foreign Life Insurance Companies are carrying carrying business within the State of Mysore and their premiums are paid in the Banks and Official receipts will be issued through their Agents at times from the British India.(Postal stamps). In that way you are loosing income of the Revenue. It will be rather very difficult for the people of Mysore if the stamps of the Mysore Government are not affixed and if their Agencies are not registered in the Mysore State, because the people will have no jurisdiction to shew against the Companies in case of any claim or fraud or mis-representation etc.,

Is it not possible to make any legislation to conduct the good conduct and working of these Agencies and the Companies within your State to avoid any fraud to your public.

I hope you will take necessary action in insisting for the registration of all the Agencies of different Companies at least now.

Thanking you,

THE PRUDENTIAL ASSURANCE COMPANY Ltd.,

Abridged Prospectus of the Ordinary Branch for persons (other than European Officials) resident in India, Burma and Ceylon.

THE PRUDENTIAL ASSURANCE COMPANY was founded in Great Britain in the year 1848.

The Company has the largest number of policyholders of any Life Assurance Institution in the world.

The business of the Company is divided into three branches, Ordinary, Industrial, and General.

The annual income exceeds Thirty-Three Million Pounds.

The funds exceed One Hundred and Seventy Million Pounds, and are invested in the highest class of securities.

The amount paid in claims exceeds Two Hundred and Thirty-Six Million Pounds.

The Chief Office is at Holborn Bars, London, England, and District Offices have been established throughout Great Britain, Ireland, the Channel Islands, and the Isle of Man. The sole representatives for Life Business in India, Burma and Ceylon are Messrs. Gillanders, Arbuthnot and Co., Clive Buildings, Calcutta.

SECURITY.

The Security offered by the Company is absolute.

The Funds of the Ordinary Branch at 31st December, 1924, amounted to £76,312,016 equivalent to Rs. 114,46,80,240 @ Rs. 15 to £1—and are expressly reserved to meet the liabilities on policies and other contracts in this Branch.

ECONOMY.

The expenses of this Branch are low, and the consequent economy in working is an important source of profit.

ANNUAL BONUSES.

Ninety per cent. of the declared profits of this Branch (after provision for any contingency fund for the Branch) is divided among the participating policyholders.

Bonuses are declared annually by way of addition to the sum assured. For each of the years 1923 and 1924, the rate of reversionary bonus has been Rs. 20 on each Rs. 1000 of the sum assured.

POLICIES WORLD-WIDE.

All policies are world-wide from the date of issue, but an extra premium for foreign residence may be charged in those cases where the proposer contemplates leaving India, Burma or Ceylon at the time that policy is issued.

POLICIES INDISPUTABLE.

Policies are indisputable and unchallengeable after three years, except for fraud or on account of a breach of any of the conditions contained therein. Provision is made to protect beneficial interests of third parties, *bonafide* acquired for valuable consideration.

GUARANTEED SURRENDER VALUES.

Liberal surrender values are granted, varying with the age of the assured, and the nature and duration of the assurance.

PAID-UP POLICIES.

As an alternative to the Surrender Value a paid-up Policy for a reduced sum assured will be granted provided that the policy has not become void under any of its conditions.

LOANS ON POLICIES.

Loans are granted by the Company on policies which have acquired a surrender value.

IMMEDIATE PAYMENT OF CLAIMS.

Claims are paid immediately after due proof of death and title has been furnished to the satisfaction of the Directors

PREMIUMS.

Premiums may be paid yearly or by half-yearly, quarterly or monthly instalments, subject to additions to the yearly rate of 1½, 2½, and 4 per cent respectively.

ENDOWMENT ASSURANCE WITH PROFITS.

Annual Premiums required to secure Rs. 1,000 at the end of a specified term of years from the commencement of the Assurance, or at Death if previous.

MINIMUM SUM ASSURED Rs. 1,500.

Age Next Birthday.	Table XXIII A.	TABLE V. ENDOWMENT TERM			
	10 YEARS	15 YEARS	20 YEARS	25 YEARS	30 YEARS
	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.
20	108 15	72 0	54 0	43 9	37 0
21	109 0	72 2	54 2	43 12	37 4
22	109 1	72 4	54 5	44 0	37 9
23	109 3	72 7	54 8	44 4	37 15
24	109 5	72 10	54 12	44 9	38 5
25	109 7	72 12	55 0	44 14	38 12
26	109 9	73 0	55 4	45 4	39 3
27	109 11	73 3	55 9	45 10	39 11
28	109 14	73 7	55 14	46 0	40 3
29	110 1	73 11	56 4	46 8	40 12
30	110 4	74 0	56 10	47 0	41 6
31	110 7	74 5	57 0	47 8	42 0
32	110 11	74 10	57 8	48 2	42 11
33	110 15	75 0	58 0	48 12	43 8½
34	111 3	75 7	58 8	49 8	44 7½
35	111 8	75 14	59 2	50 4	45 7
36	111 13	76 6	59 13	51 2	
37	112 3	76 15	60 9	52 0	
38	112 9	77 8	61 6	53 0	
39	113 0	78 2	62 3	54 2	
40	113 8	78 14	63 1	55 4	
41	114 0	79 10	64 0		
42	114 9	80 7	65 2		
43	115 3	81 6	66 5		
44	115 14	82 6	67 11		
45	116 10	83 8	69 4		
46	117 7				
47	118 5				
48	119 4				
49	120 5				
50	121 8				

These premiums may be paid by appropriate half yearly, quarterly or monthly instalments.

Premiums are usually payable for the term of years equal to the endowment term or until death if previous, but they may be limited to a term of years which is less than the endowment period.

APPLICATIONS FOR AGENCIES INVITED.

ENDOWMENT ASSURANCE WITHOUT PROFITS.

Annual Premiums required to secure Rs. 1,000 at the end of a specified term of years from the commencement of the Assurance, or at Death if previous.

MINIMUM SUM ASSURED Rs. 1,500.

Age Next Birth-day.	Table XXIII B. ENDOWMENT TERM 10 YEARS		TABLE IV. ENDOWMENT TERM 15 YEARS		20 YEARS		25 YEARS		30 YEARS	
	Rs.	a.	Rs.	a.	Rs.	a.	Rs.	a.	Rs.	a.
20	96	3	64	2	46	10	36	12	29	6
21	96	4	64	4	46	13	36	15	29	11
22	96	5	64	6	47	0	37	2	30	0
23	96	7	64	9	47	3	37	6	30	5
24	96	9	64	12	47	6	37	11	30	11
25	96	11	64	14	47	10	38	0	31	1
26	96	13	65	2	47	14	38	6	31	8
27	96	15	65	5	48	3	38	12	32	0
28	97	2	65	9	48	8	39	2	32	8
29	97	5	65	13	48	14	39	9	33	1
30	97	8	66	2	49	4	40	1	33	10
31	97	11	66	6	49	10	40	10	34	3
32	97	15	66	12	50	0	41	3	34	15
33	98	3	67	2	50	8	41	13	35	11
34	98	7	67	8	51	1	42	8	36	9
35	98	12	68	0	51	11	43	4	37	8
36	99	1	68	6	52	6	44	0		
37	99	7	69	0	53	2	44	14		
38	99	13	69	10	53	14	45	14		
39	100	4	70	4	54	12	47	0		
40	100	12	70	14	55	10	48	2		
41	101	4	71	10	56	9				
42	101	13	72	8	57	10				
43	102	7	73	6	58	12				
44	103	2	74	6	60	2				
45	103	13	75	8	61	10				
46	104	9								
47	105	7								
48	106	7								
49	107	8								
50	108	11								

These premiums may be paid by appropriate half yearly, quarterly or monthly instalments.

Premiums are usually payable for the term of years equal to the endowment term or until death if previous, but they may be limited to a term of years which is less than the endowment period.

APPLICATIONS FOR AGENCIES INVITED.

THE

PRUDENTIAL Assurance Co. Ltd.

FOUNDED IN GREAT BRITAIN 1848.

Chief Office:- Holborn Bars, LONDON, England.

Sole Representatives for Life Business in India, Burma and Ceylon

GILLANDERS ARBUTHNOT & Co.

CLIVE BUILDINGS—CALCUTTA.

Chief Agents for Southern India.

THE MYSORE CENTRAL AGENCY

89, CHICKPET, BANGALORE CITY.

THE

PRUDENTIAL ASSURANCE CO. LTD.

PRESIDENT

Sir THOMAS DEWEY, Bt.

DIRECTORS

ALFRED CORDEROY THOMPSON, *Chairman.*
EDGAR HJORNE, *Deputy-Chairman.*
GUY PHILIP HARBEN, O. B. E.
JOHN ROY LANCASTER
Sir JOHN HENRY LISCOMBE
Sir JOHN PAGET MELLOR, Bt., K. C. B.
JAMES MOOR
WILLIAM THOMAS PUGH
FREDERICK SCHOOLING, F. I. A.
DANIEL WINTRINGHAM STABLE

SECRETARY

Sir GEORGE MAY, K.B.E., F.I.A.

DEPUTY ACTUARY

F. P. SYMMONS, F.I.A.

ASSISTANT MANAGERS

F. D. McMILLIAN H. H. REDMAN
A. H. SABIN

DEPUTY GENERAL MANAGERS

H. R. GRAY
E. DEWEY

GENERAL MANAGER AND ACTUARY

Sir JOSEPH BURN, K.B.E., F.I.A.

DISTRICT REPRESENTATIVES & CANVASSING AGENTS WANTED THROUGHOUT SOUTH INDIA

For Particulars apply to the

CHIEF AGENTS

The Mysore Central Agency

89, CHICKPET, BANGALORE CITY.

THE UNIVERSAL POWER PRESS, BANGALORE CITY.

THE

PRUDENTIAL ASSURANCE COMPANY LIMITED

INCOME TAX.

In accordance with the Indian Income Tax Act, 1922, income tax is not payable in respect of premiums for Life assurance and deferred annuity contracts on a man's own life or on the life of his wife.

The aggregate of any sums exempted for this purpose, together with any sums exempted in respect of deductions under the authority of Government from salary for the purpose of securing a deferred annuity or of making provision for a man's wife or children, shall not exceed one-sixth of total income.

GENERAL INFORMATION.

Proposals completed in India, Burma and Ceylon are considered in Calcutta and immediate cover for the sum assured (to a maximum of Rs. 1 lakh) can be given by our Life Business Representatives pending the acceptance of the risk by the Chief Office of The Prudential Assurance Company, Limited, in London.

Proof of age will be required at the time the policy is effected; this will be established by production of an official certificate of birth, or failing this, by an extract from the Horoscope together with a correct translation. If neither of those records can be produced then the Company will be prepared to consider such other reliable evidence of age as may be produced.

The Company will grant assurances and annuities on Female Lives in the case of Europeans only.

The payment of claims, Surrenders and the granting or repayment of Loans is dealt with in Calcutta.

Notice of Assignment, Change of Residence, etc., should be notified to our representatives for Life Business for India, Burma and Ceylon, *Messrs. Gillanders, Arbuthnot & Company., Clive Buildings, Calcutta.*

ಅರ್ಜಿದಾರ್.....ತಾಲ್ಲೂಕು

.....ಹೋಬಳಿ

.....ಗ್ರಾಮದಲ್ಲಿರುವ

.....ಗೆ

ಇಂಡಾರ್ಸ್ ಹುಕ್ಕುಂ.

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ವಿಷಯದಲ್ಲಿ ನೀವು ಗುಜರಾಯಿಸಿಕೊಂಡ.....

ಸುಮ್ಮುಮಿನ ಅರ್ಜಿಯನ್ನು..... ..... ಬಗ್ಗೆ

.....

.....ರವರ ಬಳಿಗೆ ಕಳುಹಿಸಿದೆ

ಬೆಂಗಳೂರು.

GOVT. OF H. H. THE MAHARAJA
OF MYSORE.

GEN. & REV. SECRETARIAT.

J. S. 32-26-2

OFFICIAL MEMORANDUM.

No. D. 963 & 4/37.
Enclosure

The accompanying Petition Registered

No. 6930 dated 30-4-37

received at the General and Revenue

Secretariat from Mr. G. Nijaguna Rao

No. 9 Krishna Buildings,

Revenue Road, Bangalore City,

forwarding Copy of the letter addressed to the Regr. of Jt. Cos. requesting if the Chief Agency Office of "The Prudential Assurance Co. Ltd." London has been kept under the Mysore Co's Regn. & requesting to take necessary action in connection for the registration of such Agencies

; forwarded, together with its enclosures

) the Regr. of Jt. Cos.

... for Remark

Ld. 5-7
Signed by Mr
V. V. Chetty

GOVERNMENT OF MYSORE.

IN REPLY PLEASE REFER TO
NO. C. 61/27-28
ENCL. 2

Office of the Registrar of Joint Stock Companies in Mysore.

Dated, Bangalore 22nd June 1927.

FROM

S. P. Rajagopalachari, Esq., B.A., B.L.,
Registrar of Joint Stock Companies in Mysore.

To

N. Rama Rao, Esq., B.A., B.L.,
Secretary to the Government of His Highness the Maharaja of Mysore, Development Departments,
Bangalore.

S i r ,

With reference to Government Official Memorandum No. D.9613/J.S.32-26-2 dated 4th May 1927, forwarding for my remarks a copy of a petition addressed to me by Mr. J. Vijendra Rao regarding the registration of Foreign companies working in the State, I have the honour to state that as the law at present stands, only those companies, which have places of business in the State are required to file certain documents with the Registrar (vide Section 277 of the Mysore Companies Regulation). It has been held in some instances in British India that carrying on business through Agents does not amount to establishing a place of busine Assuming this interpretation to be correct, it is doubtful whethe there are such a large number of foreign companies which are registerable here as suggested by Mr. Vijendra Rao. Thirty-six foreign companies have been registered in this office up to no and the question of registering two more companies is under co respondence.

2. It is probable that even under the existing law, there may be more foreign companies that have places of busine in the State and that have not registered themselves under Sec 277 of the Regulation. I have taken action to ascertain whet there are ~~are~~ any such companies and as soon as their names

are known suitable action will be taken to have them registered. I have also sent for publication in the Gazette, a notice inviting the attention of the Managers &c., of Foreign companies having places of business in the State to the requirements of Section 277 of the Mysore Companies Regulatio

3. As regards the particular company referred to in the petition, the Prudential Assurance Company, Limited, has not been registered in this office. The Mysore Central Agency who are its Chief Agents have replied to an enquiry from this office that the company has "not got an established place of business in the Mysore State"

4. The enclosures to the Official Memorandum referred to above are herewith returned.

I have the honour to be,

S i r ,

Your most obedient servant,

Registrar.

GOVERNMENT OF MYSORE.

IN REPLY PLEASE REFER TO
NO. C.61/27-28
ENCL. 3

Office of the Registrar of Joint Stock Companies in Mysore.

Dated, Bangalore... 13th September 1927.

2235

REV. SECRETARIAT
14 SEP. 1927
DEVELOPMENT BRANCH

FROM

S.P.Rajagopalachari, Esq.,B.A.,B.L.,
Registrar of Joint Stock Companies in Mysore, Bangalore.

To

N.Rama Rao, Esq.,B.A.,B.L.,
Secretary to Government of His Highness
the Maharaja of Mysore, Development Departments,
Bangalore.

Sir,

I have the honour to invite reference to correspondence ending with my letter C.61/27-28 dated 22nd June 1927 and state that Section 277 (1) of the Mysore Companies Regulation requires that Companies incorporated outside the State and which have a place of business in the State should be registered in this Office. With a view to enforce this condition a circular letter was addressed to some foreign Companies who were ascertained to be carrying on business within the Mysore State. Out of 18 Companies addressed replies from 11 Companies were received. A synopsis of the replies received is enclosed herewith for information. It will be seen therefrom that most of them contend that they have no place of business in the State.

2. It is therefore necessary to find out how far the Section is applicable to foreign Companies carrying on business here. The expression "place of business" has been explained in Section 277 (6) (b) as including a share transfer or share registration Office but it is not otherwise fully defined. Section 274 of the English Companies Act and Section 277 of the Indian Companies Act do not also define this expression. So far as can be made out from the latest commentaries on the Indian Companies Act available in this Office, there have been no British Indian Court decisions on the point. Consequently, it has become extremely difficult to decide which Companies should be registered in this Office and which not.

3. The Registrar of Companies, Bombay, who had been consulted in the matter in 1921, forwarded a copy of the Bombay Government Order (copy herein enclosed) which was based on certain decisions mentioned therein. The general lines of this order seem to have been followed hitherto in this Office.

In this connection, kind reference is invited to page 42 of the book by name "The Practice and Procedure relating to the Registration of Companies and the filing of the Returns and other documents prescribed by the Companies Acts 1908-17" (printed towards the close of 1925) by Mr.A.E.Campbell-Taylor, Registrar of Joint Stock Companies, London, where the author has explained the term "place of business". An extract from the book referred to is enclosed for information.

5. These authorities indicate that the phrase "having a pl of business" is a narrower one than "carrying on business" and that to have a place of business, the following conditions have to be satisfied:

(i) A foreign Company must be carrying on business somewhere in Mysore.
(ii) It must have an Office or other fixed place somewhere in Mysore where business is carried on.
(iii) The person in charge of the Office should be a servant of the Company whatever may be his designation.

6. In view of the difficulty and general importance of the question, I request that legal advice may kindly be obtained as to whether the old decisions mentioned in the Bombay Government Order may be continued to be followed in interpreting the term place of business" or whether any other interpretation of the expression is possible in order to compel all those foreign Companies which are "Carrying on business" in the State to be registered in this Office.

Synopsis of the replies.

Name of the Company.	
1.Bombay Mutual Life Assurance Society, Ltd.,	The Company has no place of business in Mysore but simply an Agency business is being conducted by the Cheif Agents.
2.The National Indian Life Insurance Co., Ltd.,	There is an Agent of the Company in the Bangalore City but the Company has no office.
3.Remington Typewriting Co., (Madras) Ltd.,	The Company is doing business in the Mysore Province but the place of business is situated in Civil and Military Station Bangalore.
4.The Oriental Government Security Life Assurance Ltd.,	This Company has its branch Office only in Civil and Military Station, Bangalore, and it has no accredited representatives within the Mysore State. The Company has appointed individuals throughout the several Districts of the Mysore Province styled "Agents" or "Canvassers", for canvassing and propagation purposes, some of whom collect and forward sums of money to the Company's Office. They are not empowered to pledge the credit of the Company in any way, nor is the Company responsible for the actions of these persons except in so far as it concerns the fact of their receiving money as established by the issue of receipts therefor sent to them for the purpose.

The Company has no Office either in Bangalore or Mysore. Till recently there was a representative in the State.

The Company has not established a place of business.

The Company has no place of business in Mysore and that their places of business are only in Calcutta and - Bombay.

The Company has no place of business in Mysore.

The Agents have requested that a Copy of Section 277 may be sent. It is not yet known whether the Company will seek registration.

5. Underwood Typewriting Co.,Ltd., Madras.

6. The ~~Imperi~~ Imperial Tobacco Co., of India Ltd.

7. Brook Bond India, Ltd.,

This Company has sent some of the required documents and it is - likely that it will be registered.

8. Standard Life Assurance Co.,Ltd.,

9. Messrs. Shaw Wallace & Co., Agents British Sulphate of Ammonia Federation, Ltd.,

10. Messrs. Abdul Cureem and Sons, Agents, Reymond Woollen Mills,Ltd. Bangalore.

11. The Agent in Chief, the West Patent Press, Chitaldrug.

This Company is likely to be registered.

Registrar.

Indian Companies Act, VII of 1913.
Correct interpretation of the words "place of business" occurring in Section 277 (1) of the

No.5532.

Revenue Department.

Bombay Castle, 18th May 1915.

Letter from the Registrar of Companies, No.2936, dated 19th March 1915:-

" I have the honour to request that you will be so good as to obtain from the Legal Adviser of Government a correct interpretation of the words 'place of business" appearing in Section 277 (1) of the Indian Companies Act, 1913.

" 2 Many of the Companies incorporated outside British India and having a place of business in Bombay have filed their papers under the said Section of their own accord, and I have sent numerous calls to other Companies by the aid of the Times of India and Thacker's Directories.

3. Out of the latter some have filed and some have either refused or are unwilling to file the papers on the ground that the Company has no place of business in Bombay.

" 4. The arguments advanced by the latter class of Companies may be briefly summarised as follows:-

Class A. Says that that the Company has no place of business here and that though he is an Agent of the Company here, he simply holds the samples of the goods of the Company, canvasses for orders and sends indents on the Company for which he gets a certain commission.

Class B.- Says that though he is an Agent of the Company here, he only receives consignments from the Company which are sold by him on account of the Company at the Company's risk for which he receives a certain fixed commission on the consignments.

Class.C.- Says that he indents goods from the Company on his own account and takes whatever profits he may get or suffers the loss, if any, incurred therein.

5. In all the above cases the original Company outside India does not bear any cost towards Office rent or establishment, etc., but the Agent, who may sometimes be the Agent of several such concerns, bears this cost himself out of his commission and styles himself either as Agent or sole agent for the Company of Companies he represents.

6. As there is a large number of Companies falling in the above classes, it is some importance that this point be definitely settled.

7. I have not come across any definition of the word 'place of business' though there are some decisions on the words 'carry on business', e.g., Grant vs. Anderson and Company (1892), 1 Q.B.D., page 108, and Baillie vs. Goodwin and Company (1886), 33 Chancery Division, page 604, and it is argued by some that the expression place of business' has a narrower meaning than the words 'carry on business

" 8. In the cases quoted above it was decided that the Companies were not 'carrying on business' but these were not cases under Companies Act, and possibly they were prior to the provision similar to Section 277 being inserted in the English Companies Act.

" 9. As, however, the intention of Section 277 is to afford facility to the public in connection with the business with the Company in holding their Agent responsible for any disputed matters, I am inclined to - believe that the above quoted decisions may not now hold good."

Government Memorandum No.4026, dated 9th April 1915, to the Remembrancer of Legal Affairs:-

"Forwarded to the Remembrancer of Legal Affairs for favour of his opinion."

Memorandum No.1041, dated 30th April 1915, from the Remembrancer of Legal Affairs:-

"Returned with Compliments.

" The phrase 'place of business' has been explained in Section 274 (6) of the English Companies Act (8 Edw., VII, Chapter 69) in

the

the same words as in Section 277 (6) (b) of the Indian Act, but it is not defined in either Act. The two decisions quoted by the Registrar, though not under the Companies Act, sufficiently explain the phrase and may be followed.

2. In Baillie vs. Goodwin and Company (1886), 33 Chancery Division, page 604, the defendants were a firm of iron founders - carrying on business at Motherwell and elsewhere in Scotland. The writ was served at the Offices of G.N.Macphail in Bucklersbury on a clerk of his. On the evidence, North J. came to the conclusion - that Macphail was carrying on a business of his own at No.20, Bucklersbury; he was employed as the agent and not as the servant of the defendants. It was accordingly held, following the case of Corbett vs. General Steam Navigation Company, 4H. and N., page 482, that the defendants were not carrying on business at Bucklersbury.

3. In Corbett's case, a company carrying on business in London employed in a country town a general commission agent who transacted the Company's business in that town in an Office for which the Company paid him rent. The Office was used solely for the Company's business, the name of the Company was not outside but there were on a board the words 'London Steam Wharf' which clearly referred to the defendants' business. The question was whether the Company carried on business in that town. Chief J.Baron Pollock said: 'The question is whether the business was done by Messrs. - Parker for the defendants in the character of servants or of agents. There is evidence to show that Messrs. Parker were not the servants of the defendants but their agents only.

4. In Grant vs. Anderson and Company (1892), 1 Q.B.D., page 108, the defendants were a firm of manufacturers carrying on business in Glasgow. They employed an Agent in London to procure orders for them on commission. For that purpose he occupied an Office in London, the rent of which he paid himself and at which he kept

samples of the defendants' goods. His duty was to received and transmit orders to the defendants at Glasgow. It was held by the Court of Appeal that the defendants did not carry on business in London within the jurisdiction of the Court.

5. The following extracts from the judgements of their Lordships illustrate the distinction between 'Carrying on business' and 'having a place of business Thus Wright J. observes: 'The only other question to be decided is whether * * * the office in Milk Street was the place of business of the defendants * * *, and I agree with my Lord that it was not, even though the defendants may in one sense be said to have carried on business there. There may be many places in which a person or firm may be said to carry on business or exercise a trade for the purposes of income tax or otherwise, and yet which it would be an abuse of language to say were the places of business of that person or firm' (page 114-15 ibid). Similarly Lord Esher M.R. observes: I agree with the view taken by the divisional Court that this Office is not the Office of the defendants but of Mc Callum only. Consequently the defendants have no place of business in London. - * * * Then do the defendants carry on business in London? The - only thing done for them in London is the obtaining of orders by Mc Callum. Is that carrying on business in London? It is doing an act which goes towards carrying on business. But we must deal with the expression 'carry on business' as used in the rules in the ordinary business sense' (pages 116-17 ibid).

- 6. The expression 'place of business' in Section 277 of the Indian Companies Act should in my opinion be interpreted in the light of the above cases. In the first place, a company must be carrying on business in British India; next it must have or must establish an Office or other fixed place where business is carried on; The expression place of business' is narrower in sphere than 'carrying on business' and should -

be dealt with, in the word of Lord Esher M.R., 'in the ordinary business sense' The question whether a Company has or has not a place of business would thus ~~xxx~~ turn on the facts of each case.

" 7. Thus in class A and C in paragraph 4 of the Registrar's letter, it cannot be said that the Company carry on business or have a place of business in Bombay. The business is that of the Agent. The facts in class B appear to be similar to Corbett's case cited ~~xxx~~ above and the question to decide would be whether the Agent is really an agent and not a servant of the Company, depending upon further details whether the warehouse where the goods are lodged is rented in the name of the Company or the agent, etc.,

O R D E R. - A copy of the opinion of the Remembrancer of Legal Affairs should be forwarded to the Registrar of Companies for information and guidance.

Sd/ J.A.Pope,
Acting Under Secretary to Government.

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* C O P Y "

Registrar of Joint Stock Companies
in Mysore.

BR.

2. Smith-V Anderson. 1880 50 L J Ch 48 C57 1/2 Income Tax Commissioners Case.

Extract from "The Practice and Procedure relating to the Registration of Companies and the filing of Returns and other Documents prescribed by the Companies Acts, 1908 to 1917 by Mr.A.E.Campbell-Taylor, O.B.E., Registrar of Joint Stock Companies, London. (page 42.)

Place of Business.

The provisions of the Act apply to a Company which establishes a "place of business", and where the Company has a - Share Transfer or Share Registration Office in this country, - such a Company has a place of business (Subsection (6)) But the Act does not apply to a Company which does business in this country (without a place of business) through an Agent, as a distinction is drawn between carrying on business and establishing a place of business. Thus in Lord Advocate v. Huron & Erie Loan & Savings Company (1910-11, Court of Session cases, Vol. - xlii., 612) the point came up on a special case before the Court of Session as to whether five Canadian Companies should comply - with the section or not. These Companies carried on business in the United Kingdom by obtaining loans, and they employed - agents who issued prospectuses, though the actual issue of the Debentures was made in Canada. None of the Companies owned an Office or paid rent for an office in this country. It was held that the Companies need not comply with Section 274 as they had not established a place of business. The decision was not appealed against; but in doubtful cases it will be advisable to ascertain from the Registrar whether or not he thinks that the section is applicable. The Registrar has been advised that if a foreign Company appoints an attorney to carry on its business in the United Kingdom the section applies.

GOVERNMENT OF MYSORE.

IN REPLY PLEASE REFER TO
No. C.34/27-28
ENCL. one.

17/10/27 17/10

Office of the Registrar of Joint Stock Companies in Mysore.

Dated, Bangalore 14/10/1927.

3250

REV. SECRETARIAT
17 OCT. 1927
DEVELOPMENT BRANCH

FROM

S.P.Rajagopalachari, Esq.,B.A.,B.L.,
~~V.R. THYAGARAJA IYER, Esq., M.A.,~~
Registrar of Joint Stock Companies in Mysore,
Bangalore.

To

N.Rama Rao, Esq.,B.A.,B.L.,
Secretary to Government of His Highness
the Maharaja of Mysore, Development Departments,
Bangalor

G. S. 32 - 26 - 5

Sir,

In continuation of this Office letter No.C.61/27-28 dated 13th September 1927, I have the honour to forward herewith copies of letters dated 19th September 1927 and 3rd October 1927 received from the Managing Agents and Secretaries of the Kalasa Tea and Produce Company, Ltd., and to request that legal advice may kindly be obtained and sent to me as to whether a foreign Company which has estates in the Mysore State cannot be considered as having a place of business in the State within the meaning of Section 277 of the Mysore Companies Regulation.

I have the honour to be,
Sir,
Your most obedient servant,

Assistant Commissioner
For Registrar of Joint Stock Companies
in Mysore.
(Absent from station.)

Letter dated 19th September 1927 from the Managing Agents and Secretaries of the Kalasa Tea and Produce Co., Ltd., to the Registr of Joint Stock Companies in Mysore, Bangalore.

We are in receipt of your letter No.C.61/27-28 of 12th instant forwarded to us by the Manager of our Estates.

We regret we were unaware that any documents had to be filed in your Office as this being the registered Office all documents in co nection with the Company are filed with our local Registrar. We would also mention that though we are Agents and Secretaries of Companies in other Indian States no demand of this kind has been made on us and we gather, therefore, that your rules must be d ferent, for on legal advice taken in the past we understand the Company's estates do not constitute a "place of business" within th meaning of the Indian Companies Act.

We shall be obliged if you will let us know where we may obtai a copy of the Mysore Companies Regulation, on receipt of which we shall be glad to furnish the necessary documents.

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Letter No.nil dated 3rd October 1927 from the Managing Agents and Secretaries of the Kalasa Tea and Produce Co., Ltd., to the - Registrar of Joint Stock Companies in Mysore, Bangalore.

We thank you for your letter of 30th ultimo and have written f the necessary forms.

In this connection we would refer you to para 2 of our letter dated 19th ultimo and shall be glad to learn whether an estate come under the definition of a Company's "place of business".

" C O P I E S "

Assistant Commissioner,
For Registrar of Joint Stock Companies
in Mysore.
(Absent from station.)

GOVERNMENT OF MYSORE.

IN REPLY PLEASE REFER TO
No. C 61/27-28
ENCL.

Office of the Registrar of Joint Stock Companies in Mysore.

Dated, Bangalore..22nd November 1927

FROM

S.P.Rajagopalachari,Esq.,B.A.,B.L.,
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Registrar of Joint Stock Companies in Mysore.

GEN. & REV. SECRETARIAT
23 NOV. 1927
DEVELOPMENT BRANCH.

To

N.Rama Rao, Esq.,B.A.,B.L.,

Secretary to Government,

Development Departments,

B A N G A L O R E.

Sir,

I have the honour to invite your reference to this office letter No.C.61/27-28 dated 13-9-27 and to request that legal advice as regards the interpretation of the expression, " place of business ", occurring in Section 277 of the Mysore Companies Regulation may kindly be obtained and sent to me very early as several cases are pending disposal in this office awaiting it.

I have the honour to be,

Sir,

Your most obedient servant,

22.11.27

Assistant to the Registrar,

for Registrar of Joint Stock Companies

absent from Head quarters.

BJECT.....

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Section 9S

File No. 32 26.

Serial No. 6

No. 25 1,99
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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

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To The Registrar of J.S. Coy

Date of issue 23-11-27

Sir

Signed by for P.H.H.

With reference to your letter No C 341/27-28 dt 14/10/27 requesting legal advice as to the correct interpretation of the expression "place of business" used in Section 277 of the Mysore Companies Regln. I am directed to forward herewith a copy of the Legal Remembrancer's Note dealing exhaustively with the question.

I have &c.

for Secy to Govt

List of enclosures.....

Copied by .....

Examined by .....

Over